

When I Have Questions and Concerns About Special Education Services

Step 1 - Building level

Description: Working with teachers and/or administrators at your school.

When to Use: Most questions can be answered at this level. Possible examples:

- Concern over materials or equipment
- Need for evaluation
- Ideas to assist at home
- Questions about a teaching method
- Transportation
- Concern over scheduling
- Grading or progress
- Criteria for entry to, or exit from, special education services
- Discipline
- Curriculum questions
- Concern over supervision or safety
- Concern about school buildings or classrooms
- Promotion, retention and graduation issues
- Verifying "stories" brought home by child
- Personnel issues
- Desire to revise the IEP

How to Use: Contact your child's teacher or the school's principal

Step 2 - District level

Description: District personnel are contacted when issues cannot be resolved at the school level.

When to Use: When concerns cannot be satisfactorily answered at the school, it may be appropriate to contact the school district office.

How to Use: Contact the district's director or coordinator of special education or the superintendent.

NOTE: Many times a concern can be handled informally by contacting the ADE/ESS Education Program Specialist (consultant) assigned to the district or charter school. With verbal consent from the parent, the consultant can contact the school and possibly remedy the concern without the parent needing to seek formal dispute resolution options. Additional information on "Solving Problems Informally" may be obtained from the web site www.ade.az.gov/ess/dispute, or by contacting one of the ADE offices listed in section 5 of this document.

Step 3 - School board or charter school board level

Description: The local, elected school board or the charter school board govern the overall operation of the district or charter school.

When to Use: The school board should be contacted, in most cases, only after *not* being able to resolve issues at the school or district levels. Boards may vary in their district involvement in the special education process. Some examples of areas more commonly addressed at the school board level might be:

- Lack of adequate special education and related services
- Pupil/teacher ratios in regular or special education classes
- Course of study for special education
- Need for out-of-district placement
- Attempting to overturn a teacher's recommendation for a student's retention or promotion
- Special education policies

How to Use: Address concerns in writing to the president of the local school board and request agenda time, if appropriate, to be heard. Confidentiality of information regarding students should be considered when asking for an open meeting.

Step 4 - Mediation at State Level

Description: This voluntary service is available to parents and schools to assist in resolving special education disputes. The program is administered and supervised by Exceptional Student Services of the Arizona Department of Education. It may not be used to delay due process. It is free to all parties and usually *does not* involve attorneys.

When to Use: Mediation may be appropriate in many areas where a problem-solving process is needed and both the parents and school are genuinely interested in a good faith compromise with the intention of reaching a written agreement without more formal or adversarial methods. Parties usually see mediation as a win/win process. Examples might include:

- Consent for evaluation
- Amount and type of special education services needed
- Amount and type of related services needed
- Classroom teacher is not making attempts to consider accommodations for a student with disabilities
- Amount of time outside the general education classroom
- Private vs. public placement

Mediation *may not* be appropriate or the best direction in areas such as:

- Identified non-compliance
- Alleged non-compliance with a due process decision pending
- School board or some other authority has made a commitment in a direction which could not be compatible with either side

How to Use: May be requested by the school or parents, by letter or phone call to:
Dispute Resolution
Arizona Department of Education
Exceptional Student Services
1535 W. Jefferson, Bin 24
Phoenix, AZ 85007
602-542-3084 or 800-352-4558

A mediation session normally takes 5 to 10 days to arrange and a half-day to a day to conduct.

NOTE: Additional information on mediation may be obtained from the following web sites: www.ade.az.gov/ess/pinspals or www.ade.az.gov/ess/dispute.

Step 5 - Formal Complaint at state level

Description: Contact the Arizona Department of Education, Exceptional Student Services (ADE/ESS), in writing, to allege non-compliance with any part of the Individuals with Disabilities Education Act (IDEA). ADE/ESS believes that attempts at Early Resolution during the initial stage (first 10 business days) of the complaint investigation process can allow parents and schools the opportunity to identify concerns and possibly reach an agreement to ensure the smooth delivery of special education services. If an early resolution agreement is reached, then the parents and school will receive a Letter of Resolution that outlines the agreement. The complaint investigation would then close. The complaint allegations associated with IDEA would be considered to be resolved, and the written agreement would be binding.

If an early resolution agreement is not reached, then the complaint investigation process will continue. The ADE/ESS staff will investigate the complaint within 60 calendar days of the filing of the complaint. After the investigation, a letter of findings and necessary corrective action will be returned to the district or charter school if non-compliance with law or regulation can be verified. Corrective action will be submitted to the ADE/ESS by the district or the charter school and verified by the ADE/ESS staff. Parents will be kept apprised during the complaint process.

When to Use: Complaints should be over issues that are observable enough to be verified without simply a judgement call on the part of the investigating staff. Examples might include:

- Placement into a special education program without evaluation, placement permission, notification of rights or development of an IEP
- Placement different than evaluation and staffing recommendation
- Evaluations and IEPs not covering all required areas
- Transportation not being provided in accordance with the IEP
- Program is changed without notification
- Services are not provided as agreed upon in the IEP meeting
- A child is suspended for more than 10 days without services during a school year and without an IEP Team meeting being held
- A child's school day is shortened without an IEP revision

- Transition needs and course of study are not documented on the IEP at least by 14 years of age
- Transition services are not documented on the IEP by 16 years of age

How to Use: For more information about the complaint process, you may contact ADE/ESS at the numbers below:

Flagstaff 928-226-0849

Phoenix 602-542-3084

Toll Free 800-352-4558

Tucson 520-628-6330

Parents may file a complaint in writing and send to:

Director of Administrative Services
Arizona Department of Education
Exceptional Student Services
1535 W. Jefferson, Bin 24
Phoenix, AZ 85007

Note: For additional information on the Formal Complaint process, please refer to the “Complaint Procedures – Revised,” located at: www.ade.az.gov/ess/dispute.

Step 6 - Local due process

Description: This is a procedural protection for parents and schools under the Individuals with disabilities Education Act (IDEA). It is a formal proceeding similar to a court setting with an impartial due process hearing officer listening to evidence submitted by both sides and making a decision within 45 calendar days of the hearing.. It is important to note that this process *can* become adversarial.

The purpose is to resolve differences in special education when they can't be resolved by less formal means. After a request for a hearing, the child's placement cannot be changed until the decision of the hearing officer is made, unless the parents and school agree on the change. In a due process hearing, schools typically will be represented by an attorney. Due process is at no expense to the parents unless they wish to have their own legal representation involved. Parents may be reimbursed for attorney fees if the decision of the hearing officer is in their favor. However, attorney fees can only be awarded by a court.

When to Use: A parent, district or charter school may request a due process hearing on:

- A proposal or refusal to initiate or change the identification, evaluation, placement, or provision of a free appropriate public education (FAPE) for a child with a disability.

How to Use: A due process hearing is convened at the request of the school district, charter school or parent. If requested by the parent, the request must be submitted in

writing to the district or charter school. It should contain the reasons for the request , the specific issue over which the dispute has arisen and the proposed resolution. The requesting party should keep a copy of their request for a due process hearing.

The school district or charter school must immediately notify the ADE/ESS that a due process hearing has been requested.

Note: A Model Complaint Form may be obtained from the ADE/ESS to assist in the filing of a request for due process. Contact one of the ADE/ESS offices listed in section 5 for assistance, or visit the web site: <http://www.ade.az.gov/ess/dispute>.

Step 7 - State due process

Description: If either party disagrees with the decision of the local due process hearing officer, they may appeal through the Office of Administrative Hearings. It is an administrative review based upon the record (the local due process transcript) and does not necessarily involve a hearing in front of an administrative law judge (ALJ). The state officer may request additional information from either party. The ALJ's decision is binding on all parties, subject only to judicial review through established court procedures. The findings of fact and decision will be sent to all parties within 30 calendar days.

When to Use: Same as for local due process hearing. See section 6.

How to Use: Either party may appeal the local hearing officer's decision to the Office of Administrative Hearings within 35 calendar days after receipt of the local due process decision.

Requests for appeal must be submitted in writing to:

Dispute Resolution Coordinator
Arizona Department of Education
Exceptional Student Services
1535 W. Jefferson, Bin 24
Phoenix, AZ 85007

For additional information, please call 602-542-3084 or toll free, 800-352-4558.

Some Additional Supports

1. Local special education advisory council, special education parent group, PTA/PTO, or the ADE/ESS Parent Information Network (PIN) Specialists. The PIN Specialists can be found on the web site <http://www.ade.az.gov/ess/pinspals>, or contacted through the regional offices listed in section 5.

2. Advocacy from family and friends.

3. Various organizations such as Pilot Parents of Southern Arizona, Raising Special Kids, the Arizona Center for Disability Law, the Learning Disabilities Association of Arizona, and The Arc.

4. State or private advocacy and support groups.

5. Federal Special Education Office: Office of Special Education & Rehabilitative Services, Switzer Building, 400 Maryland Ave. SW, Washington, DC 20202-2524.

6. U. S. Department of Education, Office of Civil Rights, 1244 Speer Blvd., #310, Denver, CO 80204-3582, Tel (303) 844-5695; Fax (303) 844-4303; TDD (303) 844-3417, E-mail OCR_Denver@ed.gov

7. Courts

This document was developed by Dick Dowell, Education Program Specialist with the ADE/ESS. It was revised by Shirley Hilts-Scott, PIN Specialist, in September 2002, under contract F8-0017-003, with funds allocated by the U.S. Department of Education under IDEA '97. The contents do not necessarily represent the policy of the agency, nor should endorsement by the federal government be assumed. The Arizona Department of Education, a state educational agency, is an equal opportunity employer and affirms that it does not discriminate on the basis of race, religion, color, national origin, age, sex or handicapping condition. SH-S

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